

Part 4

Restitution Judgments

77-38a-401 Entry of judgment -- Interest -- Civil actions -- Lien.

- (1) Upon the court determining that a defendant owes restitution, the clerk of the court shall enter an order of complete restitution as defined in Section 77-38a-302 on the civil judgment docket and provide notice of the order to the parties.
- (2) The order shall be considered a legal judgment, enforceable under the Utah Rules of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the restitution order is entered, enforce the restitution order as judgment creditor under the Utah Rules of Civil Procedure.
- (3) If the defendant fails to obey a court order for payment of restitution and the victim or department elects to pursue collection of the order by civil process, the victim shall be entitled to recover collection and reasonable attorney fees.
- (4) Notwithstanding Subsection 77-18-6(1)(b)(v) and Sections 78B-2-311 and 78B-5-202, a judgment ordering restitution when entered on the civil judgment docket shall have the same affect and is subject to the same rules as a judgment in a civil action and expires only upon payment in full, which includes applicable interest, collection fees, and attorney fees. Interest shall accrue on the amount ordered from the time of sentencing, including prejudgment interest. This Subsection (4) applies to all restitution judgments not paid in full on or before May 12, 2009.
- (5) The department shall make rules permitting the restitution payments to be credited to principal first and the remainder of payments credited to interest in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 37, 2011 General Session

77-38a-402 Nondischargeability in bankruptcy.

Restitution imposed under this chapter and interest accruing in accordance with Subsection 77-38a-401(4) is considered a debt and may not be discharged in bankruptcy.

Enacted by Chapter 137, 2001 General Session

77-38a-403 Civil action by victim for damages.

- (1) Provisions in this part concerning restitution do not limit or impair the right of a person injured by a defendant's criminal activities to sue and recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay restitution under this part may not be introduced in any civil action arising out of the facts or events which were the basis for the restitution. However, the court shall credit any restitution paid by the defendant to a victim against any judgment in favor of the victim in the civil action.
- (2) If conviction in a criminal trial necessarily decides the issue of a defendant's liability for pecuniary damages of a victim, that issue is conclusively determined as to the defendant if it is involved in a subsequent civil action.

Enacted by Chapter 137, 2001 General Session

77-38a-404 Priority.

- (1) Restitution payments made pursuant to a court order shall be disbursed to victims within 60 days of receipt from the defendant by the court or department provided:
 - (a) the victim has complied with Subsection 77-38a-203(1)(b);
 - (b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received; and
 - (c) the payment to the victim is at least \$5, unless the payment is the final payment.
- (2) If restitution to more than one person, agency, or entity is required at the same time, the department shall establish the following priorities of payment, except as provided in Subsection (4):
 - (a) the crime victim;
 - (b) the Utah Office for Victims of Crime;
 - (c) any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct;
 - (d) the person, entity, or governmental agency that has offered and paid a reward under Section 76-3-201.1 or 78A-6-117;
 - (e) any insurance company which has provided reimbursement to the victim as a result of the offender's criminal conduct; and
 - (f) any county correctional facility to which the defendant is required to pay restitution under Subsection 76-3-201(6).
- (3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and surcharges are paid.
- (4) If the offender is required under Section 53-10-404 to reimburse the department for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after restitution to the crime victim under Subsection (2)(a).
- (5) All money collected for court-ordered obligations from offenders by the department will be applied:
 - (a) first, to victim restitution, except the current and past due amount of \$30 per month required to be collected by the department under Section 64-13-21, if applicable; and
 - (b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection (4).
- (6) Restitution owed to more than one victim shall be disbursed to each victim according to the percentage of each victim's share of the total restitution order.

Amended by Chapter 131, 2011 General Session

Amended by Chapter 208, 2011 General Session